

REMARKS

The Office Action of January 11, 2008 has been received and considered. Claims 1-36 are pending in this application. Claim 1 has been amended. Reconsideration of the application in view of the following remarks is respectfully requested. Each of the Examiner's rejections is discussed below.

Section 102

Claims 1-3, 5, 6, 9-11, 13, 19-25, 28, 29, 31, and 33 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,088,832 to Newman ("Newman"). This rejection is respectfully traversed.

Newman fails to disclose or make obvious an article of swimwear including a swimsuit body having at least one aperture configured to encircle a portion of a swimmer's body when the swimsuit body is worn by a user; and a resilient seal secured about the at least one aperture; **wherein a surface of the resilient seal that is to contact the swimmer's body is substantially planar**, as required by independent claim 1.

Newman discloses swimwear with a suction cup sealing strip 30 that has a plurality of suction cups 37 on its surface. Suction cups 37 are designed to be secured to the user's skin, thereby preventing liquid and sand from passing through the opening about which the resilient material 31 is disposed. Thus, by design, the surface of Newman's sealing strip 30 that contacts the user's body is not substantially planar, it is covered with suction cups 37. One skilled in the art would also be taught away from modifying Newman's suction cup covered sealing strip so as to have a substantially planar surface, as the purpose of suction cups 37 would be defeated by removing them.

Newman also fails to disclose or make obvious an article of swimwear including a swimsuit body having at least one aperture configured to encircle a portion of a swimmer's body

when the swimsuit body is worn by a user and **configured to be a leading edge of the swimsuit when the user is swimming**, as required by independent claim 21.

In Newman, sealing strip 30 is positioned about leg openings 25, 26 in the mens' and womens' suits, as well as about the waist in the womens' suit. None of these locations is a leading edge of a swimsuit when a user is swimming.

For these reasons, the rejection is improper and should be withdrawn.

Section 103

Claims 4, 7, 8, 12, 14-18, 26, 27, 30, 32, 34, and 35 have been rejected under 35 U.S.C. § 103(a) over Newman. This rejection is respectfully traversed.

As discussed above, Newman fails to disclose or make obvious an article of swimwear including a swimsuit body having at least one aperture configured to encircle a portion of a swimmer's body when the swimsuit body is worn by a user; and a resilient seal secured about the at least one aperture; **wherein a surface of the resilient seal that is to contact the swimmer's body is substantially planar**, as required by independent claim 1, from which claims 4, 7, 8, 12 and 14-18 depend.

Further, as discussed above, Newman fails to disclose or make obvious an article of swimwear including a swimsuit body having at least one aperture configured to encircle a portion of a swimmer's body when the swimsuit body is worn by a user and **configured to be a leading edge of the swimsuit when the user is swimming**, as required by independent claim 21, from which claims 26, 27, 30, 32, 34, and 35 depend.

Accordingly, the rejection is improper and should be withdrawn.

Conclusion

It is respectfully submitted that the pending claims are in form for allowance. Please apply any charges or credits to Deposit Account No. 19-0733.

Respectfully submitted,

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